

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

SB 53 – HB 261

May 9, 2017

SUMMARY OF ORIGINAL BILL: Continues permanent rules filed with the Secretary of State after January 1, 2016, and schedules Tennessee Auctioneer Commission Rule 0160-01-.28 to expire upon this bill becoming law.

FISCAL IMPACT OF ORIGINAL BILL:

NOT SIGNIFICANT

SUMMARY OF AMENDMENTS (008104, 008760, 008761): Amendment 008104 adds language to the original bill which would require rule 1320-05-01 promulgated by the Department of Revenue (DOR) to expire upon this bill as amended becoming law.

Amendment 008760 deletes and rewrites the bill as amended by amendment 008104 to restore the original language of the bill.

Amendment 008761 adds language to bill as amended by 008760 to prohibit the Department of Revenue (DOR) from collecting any internet sales or use taxes authorized under rule 1320-05-01-.129(2) prior to permission under a court ruling and subsequent approval of such court ruling by the Government Operations Committees of the General Assembly.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENTS:

NOT SIGNIFICANT

Other Fiscal Impact – Should the court or the Government Operations Committees prohibit the collection of certain sales and use taxes the result will be forgone state revenue estimated to exceed \$160,493,400 as well as forgone local revenue estimated to exceed \$59,423,000.

Assumptions for the bill as amended:

- The continuation of permanent rules beyond the current expiration date of June 30, 2017, and expiration of the rule relative to online auctions will not result in any significant fiscal impact to state or local government.

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- The Tennessee Department of Revenue (DOR) filed rule 1320-05-01-.129(2) with the Secretary of State (SOS) on October 3, 2016; which, pursuant to Tenn. Code Ann. § 4-5-207, became effective 90 days after the filing.
- Rule 1320-05-01-.129(2) requires certain out-of-state dealers to collect and remit the appropriate sales and use taxes collected to the DOR beginning July 1, 2017.
- Litigation regarding this rule is currently pending; therefore it is assumed the DOR will not collect any revenue prior to a favorable ruling being issued.
- The Government Operations Committees will have authority to approve or disapprove the rule after the court makes a ruling.
- Any prohibition of collection of such sales and use taxes by the DOR will result in recurring forgone state revenue estimated to exceed \$160,493,383 as well as recurring forgone local revenue estimated to exceed \$59,423,013.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in blue ink that reads "Krista M. Lee". The signature is written in a cursive, flowing style.

Krista M. Lee, Executive Director

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